

NOTICE OF PROPOSED RULEMAKING ACTION (NOPA)

DEPARTMENT OF FORESTRY & FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL

**California Code of Regulations
TITLE 19. PUBLIC SAFETY
Division 1. State Fire Marshal
Chapter 1. General Fire and Panic Safety
Article 3. General Provisions
Section 3.28. Plans and Specifications**

NOTICE IS HEREBY GIVEN pursuant to Government Code, §11346.6, that the California Department of Forestry and Fire Protection – Office of the State Fire Marshal (“OSFM”) or (“SFM”) proposes to take the regulatory action described below in the Informative Digest implementing Title 19, Division 1, Chapter 1, Article 3 of the California Code of Regulations (CCR), related to correlation of existing statutory mandates related to review of building plans and specifications, after considering public comments, objections, or recommendations regarding the proposed action. These proposed amendments provide clarity to the State Fire Marshal’s authority and function for state and local agencies or private entities.

WRITTEN COMMENT PERIOD

Any interested person or his/her authorized representative, may submit written comments relevant to the proposed regulatory action. Written comments will be accepted for 45 days beginning **March 19, 2021** and **ending May 3, 2021**. The written comment period **closes at 12:00 a.m. Pacific Daylight Time (PDT) on May 4, 2021**. All written comments received by that time and date will be considered and responded to as part of the compilation of the rulemaking file and are subject to disclosure under the Public Records Act (Gov. Code § 6250, et seq.). Written comments should be directed to:

- **Email:** Diane Arend diane.arend@fire.ca.gov
(Include in the subject line of the email “**Comments: Plans and Specifications**”).
- **Mail to:**
CAL FIRE / Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460
Attn: Diane Arend, Code Development & Analysis
- **Hand delivered between 8:00 a.m. and 5:00 p.m.(PDT) to:**
CAL FIRE / Office of the State Fire Marshal
2251 Harvard Street, Suite 400

Sacramento, California 95815
Attn: Diane Arend, Code Development & Analysis

Pursuant to Government Code §11346.9, the SFM shall respond to comments submitted during the comment period containing objections and/or recommendations specifically directed at the SFM's proposed action or to the procedures followed by the agency in proposing or adopting the action.

PUBLIC HEARING

The SFM has not scheduled a public hearing on this proposed action. However, the SFM will hold a public hearing to accept comments if a written request is received from any interested party or their authorized representative no later than 15 days prior to the end of the 45-day written comment period, pursuant to Government Code Section 11346.8. Submit requests to the contact person at the address indicated above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the 45-day comment period, the SFM may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text – with changes indicated – shall be made available to the public for at least 15 days before the SFM adopts, amends, or repeals the regulations as revised. The SFM will accept written comments on the modified regulations for 15 days after the date on which they are made available. To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modified regulations. Requests should be sent to the contact person at the address indicated above.

AUTHORITY & REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Section 13108. These amendments are necessary to clarify the statutory mandate that the State Fire Marshal enforce building standards adopted by the Building Standards Commission in all state owned, specified state occupied buildings and facilities, state institutions or portions thereof consistently throughout the state.

INFORMATIVE DIGEST - POLICY STATEMENT OVERVIEW

The regulations proposed in this rulemaking action implement, interpret, clarify and/or make specific Health and Safety Code §13108 by making the following changes:

Specifically, this action proposes requirements for submittal of plans and specifications to the State Fire Marshal for review and approval. This rulemaking action proposes the amendment of Sections 3.28(b), (c), (d), (e) and (f) in CCR, Title 19, Division 1, Chapter 1, Article 3.

The broad objective of the proposed action is to better define the regulatory requirements of the Office of the State Fire Marshal (OSFM) Fire and Life Safety Program related to submittal of building plans and specifications for review and approval to ensure compliance with California Code of Regulations, Title 24 in all “state owned, specified state occupied, and state institution” buildings and facilities, or portions thereof.

The regulations proposed in this rulemaking action would specify and define the regulatory requirements of the OSFM Fire and Life Safety Program by making the following changes:

- Edit and renumber California Code of Regulations, Title 19, Section 3.28 without regulatory effect.
- Specify statutory requirements for submittal of building plans and specifications to ensure compliance with California Code of Regulations, Title 24 in all “state owned, specified state occupied, and state institution” buildings and facilities, or portions thereof to the State Fire Marshal for review and approval.
- Provide a reference to the existing statutory authority transferred to Division of the State Architect as referenced in Government Code, Section 14963.
- Update Authority and Reference notations.

Summary of Existing Laws

Health and Safety Code Section 13108(c) requires the State Fire Marshal to enforce regulations adopted in California Code of Regulations relating to fire and panic safety in all state owned, specified state occupied buildings and facilities, and state institutions. The enforcement of this law is accomplished through effective plan review and construction inspection conducted by the Office of the State Fire Marshal, Fire and Life Safety Division.

Summary of Existing Regulations

Existing regulations regarding the proposed changes establish the requirements in California Code of Regulations, Title 19, Division 1, Chapter 1, Section 3.28, Plans and Specifications. The State Fire Marshal is proposing to amend CCR, Title 19, Chapter 1, Section 3.28.

Summary of Effect

These changes will have negligible effect on the State Building system. The largest effect these regulations have are to adjust and update business practices that are already firmly established and in-place in Statute.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Objective and Anticipated Benefits

With the passage of AB 1338 (added by Stats. 1991, Ch. 865, Sec 5.) Section 14963 was added to the government Code. This section transferred the duties and functions formerly conducted by the State Fire Marshal that relate to school construction, building plan review, and building construction inspections to the Office of the State Architect. This package will clearly define the authority for submittal of school projects to the Office of the State Architect.

Pursuant to Health and Safety Code, Section 13108, these amendments also define the authority to the Office of the State Fire Marshal for state owned, specified state occupied buildings and facilities, and state institutions related to construction, building plan review and inspection.

The broad objective of the proposed action is to further define and clarify the statutory authority in the regulations for the SFM fire and life safety program.

The specific benefit anticipated from the regulation is the consistent application and enforcement of regulations and business practices for the State Fire Marshal which benefits the public health and welfare of California residents, worker safety, and the environment by ensuring consistency by clarifying the existing laws throughout the state.

Evaluation of Consistency/Incompatibility with Existing State Regulations

The OSFM determined this proposed regulation is not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect these areas; the OSFM has concluded that these are the only regulations that concern plans and specifications related to state owned, specified state occupied buildings and facilities, state institutions or portions thereof within the Office of the State Fire Marshal for the purposes cited in the Health and Safety Code Section 13108.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to the Office of the State Fire Marshal, or to any specific regulation. There are no other matters to identify.

DISCLOSURES REGARDING THE PROPOSED ACTION

The State Fire Marshal has made the following initial determinations:

1. Mandate on local agencies and school districts: **None**
2. Cost or savings to any other State agency: **None**
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Sections 17500-17630: **None**
4. Other non-discretionary cost or savings imposed upon local agencies: **None**
5. Cost or savings in federal funding to the State: **None**

6. Significant effect on housing costs: **None**
7. Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other States: **None**

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS:

There is no cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations only clarify both practices and policies already implemented to ensure compliance with existing laws.

DECLARATION OF EVIDENCE

The OSFM has not relied on any other facts, evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact.

SMALL BUSINESS DETERMINATION

The State Fire Marshal has made the initial determination that the proposed amendments to these regulations will have no effect on small business and the State Fire Marshal has not identified any alternatives that would lessen any adverse impact, if any, on small business. These changes only clarify existing statutory mandates already implemented by the Office of the State Fire Marshal.

BUSINESS REPORT

This regulatory proposal does not create or mandate any new reporting or recordkeeping requirements beyond the business practice that has already been established by the SFM.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Adoption of these regulations *will not*:

- a) Create or eliminate jobs within California;
- b) Create new businesses or eliminate existing businesses within California; or
- c) Affect the expansion of businesses currently doing business within California.

Benefits to Health and Welfare, Worker Safety, and the Environment.

- d) The State Fire Marshal has assessed that this regulatory proposal *will* benefit the public health and welfare of California residents, worker safety, and the environment by ensuring consistency by clarifying the existing laws throughout the state.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), SFM must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed

action described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The State Fire Marshal invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON(s)

Inquiries concerning the proposed regulatory action, or requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations or other information upon which the rulemaking is based may be directed to:

General inquiries:

Diane Arend, Supervising DSGM/Regulations Coordinator
CAL FIRE / Office of the State Fire Marshal
2251 Harvard Street, Suite 400
Sacramento, CA 95815
Phone: (916) 568-2917
Email: diane.arend@fire.ca.gov

For substantive or technical questions:

Stephen C. Guarino, Chief-Fire & Life Safety North
CAL FIRE / Office of the State Fire Marshal
2251 Harvard Street, Suite 130
Sacramento, CA 95815
(916) 568-6641
Email: steve.guarino@fire.ca.gov

Sandy Margullis, Supervising DSGM
CAL FIRE / Office of the State Fire Marshal
2251 Harvard Street, Suite 130
Sacramento, CA 95815
(916) 204-3054
Email: sandy.margullis@fire.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The State Fire Marshal will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office indicated above. As of the date this notice is published in the Notice Register, the SFM's rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons for the proposed action and an economic impact assessment contained in the initial statement of reasons. Copies may be

obtained through the contact person(s) at the address or telephone number listed above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons (FSOR) may be obtained by making a written request to the contact person at the above address or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action (NOPA), the Initial Statement of Reasons (ISOR), the Text of Proposed Regulations (ET) in underline and strikeout, and any other materials or documents incorporated by reference may be accessed through the SFM web site at: <https://osfm.fire.ca.gov/divisions/code-development-and-analysis/title-19-development/>

PLAIN ENGLISH DETERMINATION

The proposed Regulations were prepared pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code § 11342.580 and §11346.2(a)(1). The proposed regulations were written to be easily understood by the parties that will use them.